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Zoning Case No. C14-06-0117

Zoning Case No. C14-04-0030

RESTRICTIVE COVENANT

Late Backup

OWNER: The Schuler Family Trust of 1998

ADDRESS: 300 Buckeye Trail, Austin, Texas 78746

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 1.061 acre tract of land, more or less, out of the Santiago Del Valle Grant in the City of Austin, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant;

Lots 1 and 2, Block A, The Schuler Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Document No. 200300013, of the Official Public Records of Travis County, Texas; and

Lot 1, Lela Parkinson Subdivision, a subdivision in the City of Austin, Travis County, according to the map or plat recorded in Book 17, Page 34, Plat Records of Travis County, Texas.

(the above Property is further identified as Tracts A, B, and C as shown on Exhibit "B" incorporated into this covenant)

WHEREAS, the Owner of the Property and the City of Austin has agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. All residential dwelling units must be developed and sold as condominiums.
2. Commercial spaces shall have the flexibility to be finished out as office space or retail space.
3. Dumpsters and service areas shall be contained within the buildings.
4. Mechanical equipment shall be screened.

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5. A 25-foot wide heavily vegetated buffer shall be provided and maintained along the ~~south~~ property line that runs along the adjacent residential areas to the south of the Property. Improvements permitted within the buffer zone are limited to landscaping, screening, underground utility and drainage improvements or those improvements that may be otherwise required by the City of Austin or specifically authorized in this covenant. Within the buffer Class I trees shall be planted 20 feet on center, with modifications permitted to accommodate improvements as defined in this paragraph. A tree may be omitted where existing trees remain.
6. Sidewalks and streetscapes shall be built to the standards set forth in *Subchapter E: Design Standards and Mixed Use of the City Code*.
7. Twenty-five percent of the total number of roof surfaces in the project shall be covered with live vegetation. This vegetation may be contained in pots, planters, or other containers, or grown in other media. Documentation must be submitted demonstrating that the roof can support the additional load of plants, soil, and retained water, and that an adequate soil depth will be provided for plants to thrive.
8. All structures shall use the same building materials, including masonry, on all sides of the structures.
9. Prior to certificate of occupancy, existing retaining walls shall be removed along East Riverside Drive and the site excavated to street level, except where shown on Exhibit "B".
10. A protected tree removed during excavation of the site must be replaced at 100 percent.
11. All points of access shall have interconnectivity to allow access for all development to both the IH-35 frontage road and Riverside Drive. No access is allowed to Summit Street or Manlove Street. Access from the Property is limited to two driveway cuts to Riverside Drive and one driveway cut to the east frontage road of IH-35.
12. For a building or structure constructed on Tracts A and B fronting Riverside Drive:
- a. Fifty percent of a building shall not exceed a height of three stories; and
 - b. Fifty percent of a building shall not exceed a height of four stories
13. A building or structure constructed on Tract C shall not exceed a height of two stories and must include underground parking.
14. A parking structure constructed on any part of the Property must be contained in a structure up to two levels above grade and may be no higher than the existing grade of the adjacent property located along the south property line of the subject Property.
15. The maximum number of units on Tract A and Tract B combined is 65 residential units. If vertical mixed use building standards are applied to development of the Property, the residential units may be increased to 100 units.
16. Vertical mixed use building means the Property is subject to Chapter 25-2, Subchapter E, Article 4.3 (*Vertical Mixed Use Buildings*), as follows:

- (a. The Property is exempt from the dimensional standards identified in Article 4.3.3 E.2. (*Dimensional and Parking Requirements*).

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b. The Property is subject to the parking reductions identified in Article 4.3.3 E.3. (Dimensional and Parking Requirements).

c. Ten percent of residential units in a vertical mixed use building shall be reserved for rental by households earning no more than 80 percent of the Annual Median Family Income.

17.16 Non-residential uses of the Property (Tracts A, B, and C) may not exceed 75,000 square feet of gross floor area. If the maximum 75,000 square feet is used, then the building square footage for Tracts A and B combined may not exceed 50,000 square feet.

18.17 A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day, unless a traffic impact analysis (T.I.A.) is submitted and approved by the director of W.P.D.R.

19.2 All residential and commercial development shall comply with Austin Energy Green Building Program for a minimum two-star rating. Certification shall be met as specified by the version of the rating system current at the time of design.

20. prior to issuance of a cert of occupancy, owner shall comply with provisions of covenant. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

21. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

22. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

23. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2007.

OWNER:

The Schuler Family Trust of 1998

By: _____
Jean E. Schuler, Successor Trustee
of the Schuler Family Trust of 1998

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APPROVED AS TO FORM: ,

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2007, by Jean E. Schuler, as Successor Trustee, of the Schuler Family Trust of 1998.

Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Legal Assistant